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*Opinion*

July 11, 1958

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CONCORD, N.H.

Mr. Frederick M. Clarke  
Commissioner of Motor Vehicles  
State House Annex  
Concord, New Hampshire

Dear Mr. Clarke:

Your inquiry of July 9, 1958, suggests the advisability of a rather careful analysis of the entire statutory law dealing with the matter of semi-trailers and trailers when used in connection with agricultural operations. We have undertaken the same with the thought that the nature of curative legislation may thereby be suggested.

The basis for the registration requirement with respect to vehicles moving on the highways lies in RSA 260:12, which forbids, except as otherwise provided, the operation on the ways of this State of "any motor vehicle, trailer, semi-trailer, or tractor", unless the same shall have been registered. Thus the blanket requirement of registration for all vehicles falling within the classes enumerated.

Turning to RSA 259:1, we find numerous definitions to be applied in the interpretation of statutes lying within Title XXI of the Revised Statutes Annotated - the Title dealing with motor vehicles. For

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the moment we need not consider the definition of a motor vehicle or tractor; but we are concerned with the statutory definition of the other two classes of vehicle named in RSA 260:12. We find (paragraph XXIII) that a trailer is a vehicle without motive power

"designed for carrying property or passengers wholly on its own structure and for being drawn by a self-propelled vehicle, except those running exclusively on snow or on stationary tracks and vehicles used exclusively for agricultural purposes. (emphasis added)

Parenthetically, then, before proceeding further, we may note that a vehicle which would otherwise be a trailer and thus subject to registration is not a trailer if used exclusively for agricultural purposes.

In paragraph XXVIII the term "semi-trailer" is defined.

It is

"a vehicle of the trailer type so designed and used in conjunction with a self-propelled vehicle that a considerable part of its own weight or that of its load rests upon and is carried by the towing vehicle, and not including a pair or set of wheels commonly used as an implement for other purposes than transportation."

The distinguishing characteristic between a trailer and a semi-trailer, according to this definition, lies in the distribution of weight or of its load. The semi-trailer has some of the characteristics of a trailer, since it is "of the trailer type". But its design is such that "a considerable part" of the weight which it represents rests upon and is carried by the towing vehicle.

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In an opinion written some years ago by the then Attorney General Ernest R. D'Amours the vehicle then under consideration - a two-wheel, single axle vehicle "of the trailer type" was held to be a trailer, for the reason, as Mr. D'Amours substantially stated it, that the weight of the vehicle and load was in balance upon the axle, and did not rest upon the towing vehicle. An examination of the exhibits accompanying the request giving rise to Mr. D'Amours' opinion shows the reasonableness of his conclusion in that regard. But that opinion related only to facts there under consideration; and we do not believe that all two-wheel vehicles "of the trailer type" are trailers simply because it might be possible to balance the weight about the axle. We are confronted with two vehicles "of the trailer type": the true trailer (paragraph XXXII) which carries its load wholly on its own structure, and the semi-trailer (paragraph XXVIII) of which a considerable part of its weight rests upon the towing vehicle. There is no recognition given an intermediate class. Consideration must be given to the meaning of the word "considerable"; and conclusions might vary with the facts. We would not wish to prescribe a percentage of the total weight a "considerable part" of it would be - but we do point out that we must distinguish between the two alternatives; the entire weight wholly supported by the structure of the towed vehicle on the one hand and some other distribution of weight on the other. We are not, as indicated above, given the third choice: "a little" or "some" of the weight of the towed vehicle resting upon the towing vehicle. If you are to recognize such a classification, then you must conclude that

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vehicles falling within the third hypothetical classification may operate upon the highways free from registration. They are not trailers under the definition, nor would they be semi-trailers. This would be an absurd result, one obviously not intended by the Legislature nor required by the language which it used.

The logical and reasonable treatment of the phrase "considerable part of its own weight or that of its load" would require that support essential to the usefulness and operation of the vehicle under consideration be derived from the towing vehicle.

We may leave this portion of our inquiry, then, with the following conclusions. A semi-trailer must always be registered, to whatever use it may be put. A trailer must likewise be registered, except if it be devoted exclusively to agricultural purposes. The only area for discussion lies in the interpretation of the definition of "semi-trailer"; and it is our view that the principles outlined in the preceding paragraph should control in this regard.

The provisions of RSA 262 dealing with registration and license fees are not seen to modify the foregoing statutes. Paragraphs I, II and III of RSA 262:1 require no comment. Paragraph IV may be thought pertinent, because of the manner in which reference is made to trailers and semi-trailers. The first sentence prescribes certain rates according to a schedule, "[f]or each motor vehicle, farm truck or tractor, including trailers and semi-trailers equipped with pneumatic tires . . ." The

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grammatical construction of the foregoing language might be supposed to suggest that a farm truck or a tractor might include or have attached to it a trailer or semi-trailer, and thus convey the impression that the tractor or truck might not need be registered separately from the trailer or semi-trailer. We think, however, that the logical interpretation of the sentence is to consider it as listing the several types of vehicle subject to registration as,

- (1) the motor vehicle
- (2) the farm truck,
- (3) the tractor,
- (4) the trailer, and
- (5) the semi-trailer.

The word "farm" is not held to refer to a farm tractor since the farm tractor is dealt with in paragraph V; and for the further reason that the next to the last sentence in paragraph IV suggests that consideration was being given in that section to the ordinary prime mover used for the haulage of semi-trailers on the highway.

While the several paragraphs in RSA 262:1 make reference to vehicles which tow other vehicles, as, for example, paragraph V relative to tractors used for agricultural purposes "and used to draw another vehicle in such a way that a part of the load is carried on such towing vehicle . . .", yet nothing is found which would affect the requirements of RSA 260:12 concerning the types of vehicles which must be registered. That is to say, while RSA 262 relates to fees and necessarily may refer to the use to which a given vehicle may be put, as bearing upon the fee to be

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charged, which use may include towing other vehicles, it does not change the basic requirement that motor vehicles, trailers, semi-trailers and tractors must be registered before being operated upon the highway.

In this view, it is not seen that the type of vehicle furnishing motive power to a towed vehicle bears upon the question whether such towed vehicle is a semi-trailer, trailer, or whether it is of such type that it would be a trailer except for the fact that it is used exclusively for agricultural purposes. If it is properly excludable because it is a vehicle "designed for carrying property or passengers wholly on its own structure and for being drawn by a self-propelled vehicle . . ." but is used exclusively for agricultural purposes, it is in an exempt status insofar as registration is concerned; and this is true whether drawn by a limousine or by the rudest tractor. Conversely, if it is a vehicle otherwise subject to registration, the mere fact that it is drawn by an agricultural tractor does not render it exempt from the registration law.

It is our understanding that your agency for a number of years following the D'Amours opinion referred to above has taken the administrative position that the two-wheel trailer-type vehicle is exempt from registration when towed by an agricultural tractor. This was a sound position for you to adopt in view of the inferences which might reasonably be drawn from the D'Amours opinion. However, it would appear to us that the use of the agricultural tractor as prime mover bore simply upon the

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question as to the agricultural use of the towed vehicle and was held prima facie proof of the fact. But if your administrative action following the D'Amours opinion was proper in view of that opinion it would seem that effect should be given to the basis upon which the opinion was rendered, viz.: distribution of weight - and not the nature of the prime mover. Hence it would follow that any two-wheel trailer used exclusively for agricultural purposes and having a substantial balance of the load about its axle should be deemed an exempt farm trailer. While, as indicated in an earlier portion of this letter, we believe the D'Amours opinion to be strictly limited as to its facts, and requiring a technical balancing of the load, yet in view of the long-continued practice with respect to this particular type of vehicle, we suggest that you may wish to deem the D'Amours opinion applicable to all trailer-type vehicles used exclusively in agricultural pursuits until the matter can be brought to the attention of the Legislature and clarification sought.

Very truly yours,

Warren E. Waters  
Deputy Attorney General